

September 16,2016

To: Madison Plan Commission

Re: Barriques conditional use permit application

I take issue with the recent staff report on the conditional use permit application by Barriques to continue roasting coffee beans for all its operations at 961 South Park Street. The staff report implies that the city had no knowledge that Barriques was planning to roast coffee prior to obtaining its conditional use permit for outdoor seating on April 11,2011.

The Madison Plan Commission should not even be reviewing this CUP application for permission to roast coffee beans at 961 South Park Street today. This process should have instead happened in early 2011 after Barriques owners submitted their initial letter of intent to the Madison Planning Department on December 15, 2010 to start the process for the review of the proposed new Barriques cafe before the Urban Design Commission. That document contained the following statement:

"The building at 961 Park Street is approximately 2700 square feet, 2000 of which will be used for the cafe. The remaining square footage will be used to house space for our employee training program and may be used for bakery and/or coffee production."

The very next day, on December 16, 2010 at a public meeting regarding the proposed Barriques cafe at 961 South Park Street a nearby neighbor, Jane Elmer, asked Matt Weygandt directly if Barriques would be roasting coffee beans at this location. **Matt Weygandt's answer was NO.**

There was no mention of the possibility of coffee bean roasting during the UDC review process. There was no mention of the possibility of coffee bean roasting ever again in any subsequent documents submitted by Barriques owners to the Madison Planning Department. The subject was never mentioned at any of the many public hearings in early 2011 for various steps in the approval process for the UDC, Alcohol Review Board, Plan Commission, or Common Council.

Yet all through this time frame Matt Weygandt was in obviously talks with coffee roaster manufacturers to determine the necessary equipment to order and to design the back room area for optimum layout for the installation of coffee roasting equipment.

WHY was coffee roasting never brought up at any time at any meeting or in any document ever again after the first letter of intent dated December 15, 2010?

I think it was because when Matt Weygandt came in to the Madison Planning Department on December 15, 2010 to submit his application to open a new Barriques cafe at 961 South Park Street planning staff immediately saw the reference to "coffee production" in the document and warned Matt Weygandt then and there that roasting coffee at that location for sale at all Barriques cafes and for wholesale and internet sales would be a big problem. This was because 961 South Park Street was zoned C2 at the time

and C2 zoning did not allow limited production and processing for products that would be transported off site and sold elsewhere.

So, the very next day on December 16, 2010 the owners of Barriques and the city planning department began their long game of lies and deceit as to what the real plans for this new Barriques location were. There is no way that Matt Weygandt went through this whole process without having lengthy discussions with planning staff and Matt Tucker in particular about how to pull this off.

After all, Matt Tucker was and still is the Madison Zoning Administrator and he, if no one else, should know the entire zoning code by heart. Below I have copied portions of Madison's old zoning code that was effective from 2010 to January 1, 2013:

28.12 ADMINISTRATION AND ENFORCEMENT.

(2) Office Of The Zoning Administrator.

(a) Creation. There is hereby created the office of the Zoning Administrator of the Department of Planning and Community and Economic Development. The Zoning Administrator shall be responsible to the Director of the Building Inspection Division or her/his designee and the Director of the Building Inspection Division shall have the same powers as the Zoning Administrator. (Am. by ORD-08-00109, 10-7-08)

(b) Duties Of The Office Of The Zoning Administrator. The Zoning Administrator shall enforce this ordinance, and in addition thereto and in furtherance of said authority, they shall:

1. Issue all zoning certificates, and make and maintain records thereof.
 2. Issue all certificates of occupancy, and make and maintain records thereof.
 3. Conduct inspections of buildings structures and use of land, including substantial damage assessment for floodplain structures, to determine compliance with the terms of this ordinance.
12. The Zoning Administrator shall refer violations to the City Attorney who shall prosecute such violations. Copies of the violation report on floodplain regulations shall be sent to the Southern District office of the Wisconsin Department of Natural Resources.

Therefore, George Hank, Director of the Building Inspection Division, should also have been aware of plans to install coffee bean roasting equipment at the new Barriques at 961 South Park Street as he not only had authority over the Zoning Administrator but also had the same powers as the Zoning Administrator. The building inspection division thoroughly reviewed Barriques building plans and oversaw all building permits and inspection of the entire building during the remodeling. George Hank knew that coffee roasting equipment was being installed and approved the electrical work for the three phase power supply that was installed for the coffee bean roaster as well as the setup and installation of the coffee roasting equipment including the roaster, afterburner and catalytic convertor and roasting exhaust chimney. Both the Zoning Administrator and the Director of the Building Inspection Division oversaw the issuance of the Certificate of Occupancy at the end of the remodeling work. They knew from that size and capacity of the roasting equipment that this roasting operation was not just for roasting coffee beans for use this one location. A coffee bean roaster for a small cafe roasting operation would be much much smaller than the equipment that was installed.

The old zoning code states in Sec.28.12(6):

"Every certificate of occupancy shall state that the use of occupancy complies with all of the provisions of this ordinance."

But why then does the staff report for this CUP application state:

"The applicant obtained the necessary building permits to install the roasting equipment and related ventilation equipment from the Building Inspection Division and the facility was inspected by City building inspectors prior to production commencing. However, because those permits and inspections did not require approval by Zoning staff, there was no opportunity to prevent the use from commencing. The roasting operation proceeded without complaint until 2014, when Zoning staff became of the use and notified the applicant that it was not allowed."

This statement is simply not true. Matt Tucker and George Hank knew all along that this was going to be a roasting operation to produce enough product for off-site sales and use. They knew it and let it happen knowing full well the coffee production would be in violation of the zoning code.

As for there being no complaints about the coffee bean roasting until 2014, that is a bald faced lie. The first coffee roasting complaint was on August 16, 2011 on the very day Barriques started roasting coffee for the first time. After that day, there were numerous complaints by the same person during the remainder of 2011 as well as in 2012, 2013, 2014, and 2015. Each time the Madison Department of Health basically told the complainant that Barriques had "all the necessary permits and was using an afterburner and catalytic convertor and that the Madison Health Department did not see the roasting fumes as a health hazard or menace to the general public in any way; adding that there was nothing they could do about the continuing fumes.

If the Madison Health Department actually checked with the zoning or building inspection for the status of any permits or verify that the certificate of occupancy was valid for the uses on the property including coffee bean roasting, then Matt Tucker and George Hank would have again been reminded that a large coffee roasting operation was operating at 961 South Park Street in late 2011.

Thus Barriques should have been notified of non compliancy with the zoning code as well as terms of its certificate of occupancy in late 2011. This large scale coffee roasting operation should have not been allowed to continue as long as it has. Matt Weygandt, Matt Tucker, and George Hanks knowingly allowed this wall of lies and deception to continue until they could not hide it anymore. And they are still attempting to lie and deceive all of you as I write this today.

Ron Shutvet
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